

Regulatory Update

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1. FCA UPDATES & DEVELOPMENTS

1.1 MoU between FCA and Gambling Commission

On 1 May 2024, the FCA published a [Memorandum of Understanding](#) (MoU) between itself and the Gambling Commission, which establishes a framework for cooperation, coordination and information sharing between the parties.

It sets out broad principles for collaboration and the legal framework governing the sharing of relevant information and intelligence between the two regulators. The shared aims of the MoU are to enable closer working between the regulators, including setting out a framework for the exchange of information and consultation, to assist them in discharging their regulatory functions.

1.2 FCA and HMT Roadmap for implementing the Overseas Funds Regime

On 1 May 2024, the FCA and HMT published a [Roadmap](#) for implementing the Overseas Funds Regime (OFR).

The OFR Roadmap (Roadmap) gives the key stages of the process, so that operators of EEA UCITS, that wish to use the OFR as a gateway to the UK market, can prepare.

The Roadmap sets out the timeline and next steps for legislating for this decision and for EEA UCITS to apply to the FCA for recognition under the OFR. The FCA also published details of the 'landing slots' for funds that will be transitioning from the TMPR.

The Government announced in January 2024 that it did not intend to impose any additional requirements on EEA UCITS as part of this equivalence decision. However, the Government recognised the need to consult further on whether the UK Sustainability Disclosure Requirements (SDR) and labelling regime should be extended to include funds recognised under the OFR. This document sets out the intended timelines for this consultation and for the implementation of any requirements which may be applied following it.

Funds recognised under the OFR will need to comply with certain other legislative and regulatory requirements, such as the UK's retail point-of-sale disclosure requirements. The FCA is working to finalise the rules for OFR funds proposed in CP23/26 on Implementing the Overseas Funds Regime.

1.3 House of Lords Financial Services Regulation Committee letter to FCA on investment trusts' cost-disclosure regime

On 1 May 2024, the House of Lords Financial Services Regulation Committee (Committee) published a [letter](#) it had sent to the FCA's Chief Executive, Nikhil Rathi, on cost disclosure requirements for listed investment companies. The letter lists the following key issues arising from the UK's unique interpretation of EU-retained MiFID and PRIIPs not shared by any other country:

- reduced investment in SMEs by investment trusts leading to reduced investment by SMEs in the real economy, which is affecting jobs, tax revenue, and leading to cheap asset sales to foreign buyers
- the deprivation of consumers and pension funds of investment opportunity in the real economy

- reputational damage to UK markets and regulation
- harming the UK's international competitiveness.

The Committee requested answers from the FCA to the following questions:

- Can the FCA explain why it has made and sustained the decision to require investment trusts to be included in the cost-disclosure and aggregation format when no other country in Europe must do likewise?
- When was the inclusion of investment trusts in this format consulted upon, as it does not appear a straightforward requirement derived from EU legislation?
- How is the FCA working on resolving the market disruption which has come as a result of the cost disclosure requirements?
- Given the urgency of the situation, and the FCA's understanding that once the legislation is enacted, the issue will transition to the FCA's rulebook, when does the FCA expect to launch a consultation on the changes to the cost-disclosure regime and can you take immediate emergency action?
- Could the FCA confirm that once the statutory instruments are made, this issue will be solved?
- Could the FCA provide examples of where the FCA has engaged with industry on this matter?
- What is being done by way of communication to regulated entities such as investment platforms and ACDs to alert them and ensure the data trail via the EMT is brought into line with the principles of the forbearance and to prevent further elaboration of wrongful cost explanations and delisting from platforms?

The FCA's Chief Executive, Nikhil Rathi, responded by [letter](#) on 10 May 2024. The response included:

- Informing the Committee that 60% of EU listed closed-ended investment companies, equivalent to investment trusts, were disclosing a non-zero ongoing charges figure. In other words, they were doing something similar to UK investment trusts, which suggests they are following the EU PRIIPs regulation;
- Asserting that, to its knowledge, the inclusion of close-ended investment funds (including investment trusts) within the scope of the PRIIPs Regulation has been generally uncontroversial throughout the European Union;
- Informing the Committee that it intends to reform costs and charges disclosure as part of the Smarter Regulatory Framework as part of its new disclosure regime to replace the consumer-facing disclosures required by the PRIIPs and UCITS regimes; and
- Confirming that it intends to consult on its proposed rules for the replacement Composite Consumer Investments (CCIs) regime by the autumn.

1.4 FOS publishes half yearly complaints data

On 1 May 2024, the Financial Ombudsman Service (FOS) published its [half-yearly complaints data](#), covering July to December 2023 and which showed:

- overall, the FOS received a total of 95,349 complaints between 1 July and 31 December 2023 - this is an increase of almost 20% on the same period in 2022, when it received 79,921 complaints

- 236 businesses feature in the complaints data for the second half of 2023, this is up on the second half of 2022 – when 212 businesses featured
- in the second six months of the year, the FOS upheld 36% of complaints in the consumers' favour, compared to 34% in the second half of 2022.

1.5 UK EMIR reporting guidance

On 2 May 2024, the FCA published a new [webpage](#) on the UK European Market Infrastructure Regulation reporting questions and answers.

On 24 February 2023, the FCA published a joint Policy Statement ([PS23/2](#)) with the Bank confirming changes to the derivative reporting framework under UK EMIR.

The majority of the new requirements are applicable from 30 September 2024, with a transition period for some aspects.

The Q&As are applicable from 30 September 2024 in line with the majority of the new requirements.

Under Article 9 of UK EMIR, the Bank of England and the FCA share responsibility for derivatives reporting. The Bank is responsible for central counterparties (CCPs) and the FCA is responsible for all other counterparties in addition to trade repositories (TRs).

The Q&As should be read in conjunction with the FCA/Bank of England Policy Statement ([PS23/2](#)) and the supporting documentation.

1.6 FSRC launches inquiry into FCA and PRA secondary growth and competitiveness objective

On 8 May 2024, the Financial Services Regulation Committee (FRSC) [announced](#) that it is launching an inquiry into the FCA and PRA secondary growth and competitiveness objective.

The Committee will explore:

- to what extent the FCA and PRA are focused on their secondary objective of facilitating the international competitiveness and growth of the UK economy; and the balance between the regulators' primary and secondary objectives
- whether the resources and culture of the FCA and the PRA facilitate the effective implementation of their secondary objective
- in delivering their secondary objective on growth and competitiveness what opportunities there are for the regulators to help to promote and support innovation in the financial services sector
- whether the agreed metrics related to the secondary growth and competitiveness objective allow for sufficient scrutiny of any progress made by the regulators
- how effectively the FCA and the PRA have consulted with industry in relation to their secondary growth and competitiveness objective
- how the FCA and PRA might draw on examples of regulatory policies in other jurisdictions to further the implementation of their secondary objective

- how the regulatory landscape is affecting the UK’s attractiveness to domestic and international investors, and in particular to UK pension funds.

The Committee invites written submissions to its inquiry by 11 July 2024.

1.7 FCA Dear CEO letters on implementing the Consumer Duty for closed products and services

On 16 May 2024, the FCA published [Dear CEO letters](#) on implementing the Consumer Duty for closed products.

The letter highlights five key themes that firms should be considering:

- gaps in firms’ customer data
- fair value
- treatment of consumers with characteristics of vulnerability
- gone-away or disengaged customers
- vested contractual rights.

For any areas of non-compliance, the FCA expectations are that:

- firms should be prioritising their reviews and taking actions in areas where there is the greatest level of harm / potential for harm - as part of this prioritisation, they should consider where such harm might be affecting vulnerable customers
- firms should have clear, timebound, resourced plans to address any gaps in implementing remedies where they have identified these are needed to ensure good outcomes
- firms should put in place clear mitigations to protect customers from known or possible harms in the period until they have fully implemented identified improvements
- firms' governing bodies should challenge their businesses on all the above
- firms should consider assurance work via an independent function, such as their internal audit function, on how they are implementing the Duty in due course.

1.8 FCA published Handbook Notice No 119

On 24 May 2024, the FCA published [Handbook Notice No 119](#), which describes the changes to the FCA Handbook and other material made by the FCA Board under its legislative and other statutory powers on 25 April 2024 and 23 May 2024.

Securitisation (Smarter Regulatory Framework and Consequential Amendments) Instrument 2024

This instrument makes changes to the FCA Handbook to transfer the largely preserved firm facing requirements of the UK Securitisation Regulation (UK SR) to the FCA Handbook and brings clarity to a targeted number of provisions of the UK SR. At a later stage the FCA intends that its second consultation will have a broader remit for policy change, including a review of the reporting regime.

This instrument comes into force on 1 November 2024. Feedback is published in a separate [policy statement](#).

Training and Competence Sourcebook (Amendment) Instrument 2024

This instrument makes changes to the FCA Handbook to implement an annual consultation cycle on changes for updates to the qualification related elements of the Training and Competence (TC) sourcebook from 2025. To account for any urgent changes, the FCA has included the option to consult outside of the annual schedule where there are exceptional circumstances.

Further changes alter the format of the TC qualification table in TC App 4.1 to place qualifications which are no longer provided into a separate table.

This instrument came into force on 24 May 2024.

1.9 FCA publishes new webpage on operational resilience: insights and observations for firms

On 28 May 2024, the FCA published a new webpage, [Operational resilience: insights and observations for firms](#), where the FCA provides observations and insights on the preparations firms have made towards complying with [PS21/3: Building operational resilience](#) as transition period comes to an end on 31 March 2025.

The rules apply to:

- banks
- building societies
- PRA-designated investment firms
- insurers
- recognised investment exchanges
- enhanced scope senior managers and certification regime firms
- entities authorised and registered under the Payment Services Regulations 2017 and Electronic Money Regulations 2011.

Firms falling within the scope of the new regime should use the observations to review their firm's approach and assess their readiness on the following key areas of the policy.

- important business services
- impact tolerance
- mapping and third parties
- scenario testing
- vulnerabilities and remediation
- response and recovery plans
- governance and self-assessment

- embedding operational resilience
- horizon scanning.

2. FINANCIAL CRIME

2.1 OFSI issues FAQs

On 1 May 2024, the Office of Financial Sanctions Implementation (OFSI) introduced [Frequently Asked Questions \(FAQs\)](#), a new form of additional guidance aimed at providing technical support to industry partners and the public.

OFSI will release FAQs on an as-needed basis, focusing on areas where new guidance would be beneficial to a substantial audience. OFSI may publish FAQs to support a significant policy change, new general licences, enforcement actions or wider implementation problems. Any new FAQs will be announced through OFSI's E-Alert service.

2.2 FCA publishes Market Watch 79

On 9 May 2024, the FCA published [Market Watch 79](#), which discusses the following:

- failures of market abuse surveillance caused by issues with factors such as data and automated alert logic
- the recent peer review of firms' testing of front-running surveillance models.

Firms may find the observations useful in helping reduce the risk of failures by improving the implementation, testing and oversight of their technical systems for market abuse surveillance arrangements.

Market abuse surveillance across industry can take many forms. It is often challenging and complex.

Appropriate tailoring of alert models, which the FCA encourages for an effective overall surveillance programme, may increase the associated operational risk at alert level.

Testing by the second line and internal audit may help firms gain comfort about the effectiveness of their monitoring.

The FCA's observations indicate that not all firms have been allocating adequate focus and resource to governance arrangements. Some firms have complex governance arrangements where approvals and validations go through multiple steps, taking significant time. Firms should consider whether intricacy and volume in governance necessarily delivers timely, efficient and effective outcomes.

Firms need a vigilant approach to proactively guard against surveillance failures and mitigate relevant risks. This is particularly relevant in light of likely future innovation within surveillance functions. Developments such as the use of artificial intelligence will need to be accompanied by governance that keeps pace and remains effective.

The FCA encourages firms to review the issues discussed in this Market Watch and consider whether their arrangements are adequate or need improvement.

3. ESG

3.1 Sustainability Disclosure Requirements: Implementation Update 2024

On 16 May 2024, the Government published [Sustainability Disclosure Requirements: Implementation Update 2024](#).

The document covers updates on the following initiatives:

- IFRS Sustainability Disclosure Standards: The Government aims to make the UK-endorsed ISSB standards available in Q1 2025. The endorsement process will assess the standards and, subject to a positive endorsement decision, will conclude with the publication of UK-endorsed standards. These will be known as UK Sustainability Reporting Standards.
- Transition Plan Disclosures: Given the overlap between IFRS S2 and the TPT Disclosure Framework, the FCA plans, through its consultation on implementing UK-endorsed ISSB standards, to consult on strengthening its expectations for transition plan disclosures with reference to the TPT Disclosure Framework. Given the important role of transition planning across the economy, the Government will consult shortly on how the UK's largest companies can most effectively disclose their transition plans, meeting a key commitment of last year's Green Finance Strategy.
- SDR & Investment Labels: In January 2024, the Government announced that it intends to consult on whether to broaden the scope of SDR to include funds under the Overseas Funds Regime. The Government intends to issue this consultation in Q3 2024.
- UK Green Taxonomy: The Government continues to work at pace and expects to consult in due course on the proposed UK Green Taxonomy, seeking feedback on both the overarching framework and use cases, as well as the specific activity level criteria which defines green activities.
- Nature-Related Disclosures: The Government welcomes initiatives such as the Taskforce on Nature related Financial Disclosures (TNFD) which can help businesses and financial institutions assess and address their nature-related dependencies, impacts, risks, and opportunities. The Government continues to welcome the ongoing commitment of the ISSB to research and develop future additional standards, which could also include reporting on nature-related risks and opportunities and encourages the ISSB to take the work and the holistic nature risk management approach of the TNFD into account at the appropriate time.

Waystone Compliance Solutions

Waystone Compliance Solutions offers a new and unique approach to compliance services at a corporate level.

Formed by merging four specialist compliance companies – we have the capabilities to help you manage regulatory risk right across your organisation and covering the UK, Middle East, United States and Asia.

We can provide key services from initial registration and licensing to compliance programme integration. Our compliance solutions span business strategies, market activities, operational and technology infrastructure not to mention sales and marketing procedures.

Our aim at Waystone is simple: to enable our clients to navigate the complex regulatory environment with confidence.

At Waystone, we have brought together the experience, the expertise, and the global reach to give you the certainty you need to address the ever-changing regulatory world. And by doing so, provide you with a secure route on the road to success.

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If you wish to discuss how Waystone can assist you with any of the issues raised in this regulatory update, please contact us the details below:

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This Regulatory Update provides information about the consultative documents and publications issued by various regulators which are still current, proposed changes to the Rules and Guidance set out in Handbooks, actual changes to Rules and Guidance that have occurred in the months leading up to the update and other matters of relevance to regulated firms. This Regulatory Update is intended to provide general summarised guidance only, and no action should be taken in reliance on it without specific reference to the regulators' document referred to therein.